

APPEAL NO. 022740
FILED DECEMBER 17, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 19, 2002. The hearing officer resolved the disputed issue by deciding that the Texas Workers' Compensation Commission (Commission) did not abuse its discretion in not appointing another designated doctor on this claim. The appellant (claimant) appealed, arguing that the determination is so against the great weight and preponderance of the evidence as to warrant a reversal. The respondent (carrier) responded, maintaining that the challenged findings of fact and conclusions of law are supported by legally and factually sufficient evidence.

DECISION

Affirmed.

In Texas Workers' Compensation Commission Appeal No. 93045, decided March 3, 1993, the Appeals Panel stated that "[t]he need or desirability for the Commission to select a second designated doctor should be very limited and restricted to a situation such as, for example, where an initially appointed doctor cannot or refuses to comply with the requirements of the 1989 Act." The application of this notion is illustrated in our decision in Texas Workers' Compensation Commission Appeal No. 960454, decided April 17, 1996, which reviews a number of decisions discussing, under the particular factual settings of each case, whether the Commission abused its discretion in appointing or failing to appoint a second designated doctor.

The parties stipulated that the claimant suffered an injury in the course and scope of his employment on _____, to his low back. The claimant argues that the designated doctor ignored the claimant's medical conditions and improperly applied the Guides to the Evaluation of Permanent Impairment, fourth edition (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the American Medical Association prior to May 16, 2000). However, the evidence reflects that the designated doctor responded to a request for clarification acknowledging that while the medical records indicated "a large herniated disc and multiple complaints of radicular symptoms" the MRI demonstrated that these were degenerative changes and testing showed no nerve damage in the leg. The designated doctor examined the claimant and responded to the request for clarification. We find there was sufficient evidence for the hearing officer to conclude that the Commission did not abuse its discretion in failing to appoint a second designated doctor.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ST. PAUL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge